

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CHARLES EDKINS,

Plaintiff,

Case No. 13-CV-11364

vs.

HON. MARK A. GOLDSMITH

RICHARD HIGHAM, et al.,

Defendants.

ORDER

(1) ADOPTING THE RECOMMENDATION CONTAINED IN THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION (DKT. 20) DATED SEPTEMBER 17, 2013, (2) STRIKING PLAINTIFF'S AMENDED COMPLAINT (DKT. 13), (3) DISMISSING WITHOUT PREJUDICE DEFENDANTS UNITED STATES OF AMERICA, ERIC HOLDER, J.T. SHARTLE, CHARLES SAMUELS, JASON HAYES, and CHARLES HOWARD, and (4) DIRECTING THE CLERK'S OFFICE TO FILE PLAINTIFF'S AMENDED COMPLAINT (DKT. 13) AS A NEW CASE

This matter is presently before the Court on the Report and Recommendation (R&R) of Magistrate Judge Mark A. Randon, issued on September 17, 2013. (Dkt. 20.) In the R&R, the Magistrate Judge recommends (i) that Plaintiff's amended complaint (Dkt. 13) be stricken, (ii) that Defendants United States of America, Eric Holder, J.T. Shartle, Charles Samuels, Jason Hayes, and Charles Howard be dismissed without prejudice, and (iii) that the Clerk's Office be directed to file Plaintiff's amended complaint as a new case. See R&R.

The parties have not filed objections to the R&R, and the time to do so has expired. See Fed. R. Civ. P. 72(b)(2). The failure to file a timely objection to an R&R constitutes a waiver of the right to further judicial review. See Thomas v. Arn, 474 U.S. 140, 150 (1985) ("It does not appear that Congress intended to require district court review of a magistrate's factual or legal conclusions, under a de novo or any other standard, when neither party objects to those

findings.”); Smith v. Detroit Fed’n of Teachers, 829 F.2d 1370, 1373-4 (6th Cir. 1987) (failure to file objection to R&R “waived subsequent review of the matter”); Cephas v. Nash, 328 F.3d 98, 1078 (2d Cir. 2003) (“As a rule, a party’s failure to object to any purported error or omission in a magistrate judge’s report waives further judicial review of the point.”); Lardie v. Birkett, 221 F. Supp. 2d 806, 807 (E.D. Mich. 2002) (“As to the parts of the report and recommendation to which no party has objected, the Court need not conduct a review by any standard.”). There is some authority that a district court is required to review the R&R for clear error, see Fed. R. Civ. P. 72 Advisory Committee Note Subdivision (b) (“When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”). Therefore, the Court has reviewed the R&R for clear error. On the face of the record, the Court finds no clear error and adopts the recommendation.

Accordingly, the Court strikes Plaintiff’s amended complaint (Dkt. 13), dismisses without prejudice Defendants United States of America, Eric Holder, J.T. Shartle, Charles Samuels, Jason Hayes, and Charles Howard, and directs the Clerk’s Office to file the amended complaint (Dkt. 13) as a new case.

SO ORDERED.

Dated: October 21, 2013
Flint, Michigan

s/Mark A. Goldsmith
MARK A. GOLDSMITH
United States District Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court’s ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on October 21, 2013.

s/Deborah J. Goltz
DEBORAH J. GOLTZ
Case Manager